

MARIO N. ALIOTO, ESQ. (56433)
JOSEPH M. PATANE, ESQ. (72202)
LAUREN C. RUSSELL, ESQ. (241151)
TRUMP, ALIOTO, TRUMP & PRESCOTT, LLP
2280 Union Street
San Francisco, CA 94123
Telephone: (415) 563-7200
Facsimile: (415) 346-0679
E-mail: malioto@tatp.com
jpatane@tatp.com
lauren russell@tatp.com

Lead Counsel for the Indirect Purchaser Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: CATHODE RAY TUBE (CRT)) Master File No. CV-07-5944 JST
ANTITRUST LITIGATION)
) MDL No. 1917
)
) **DECLARATION OF MARIO N. ALIOTO**
) **IN SUPPORT OF IPP LEAD COUNSEL'S**
) **OPPOSITION TO MOTION OF LINGEL**
) **WINTERS FOR ATTORNEYS' FEES**

This document relates to:)
) Date: October 18, 2016
ALL INDIRECT PURCHASER ACTIONS) Time: 2:00 p.m.
) Court: Courtroom 9, 19th Fl.
) Judge: Hon. Jon S. Tigar
)

1 I, Mario N. Alioto, declare:

2 1. I am an attorney duly licensed by the State of California and am admitted to practice
3 before this Court. I am a partner with the law firm Trump, Alioto, Trump & Prescott, LLP and my
4 firm serves as Lead Counsel for the Indirect Purchaser Plaintiffs ("IPPs") in the above-captioned
5 action. I submit this declaration in support of the IPP Lead Counsel's Opposition to Motion of
6 Lingel Winters for Attorneys' Fees, ECF No. 4808 ("Mot."). The matters set forth herein are
7 within my personal knowledge and if called upon and sworn as a witness I could competently
8 testify regarding them.

9 2. Lingel Winters ("Winters") filed his complaint in this matter on April 23, 2012,
10 approximately 4 ½ years after the initial complaints. His complaint alleges basically what the other
11 complaints in this action had already alleged.

12 3. Lead Counsel had no contact with Winters after the filing of his complaint relating
13 to the prosecution of these cases. Winters never contacted Lead Counsel regarding the prosecution
14 of the case. Winters did not report his time to Lead Counsel as required by the time reporting
15 protocol.

16 4. As a result, Winters was not included in the joint fee petition filed on behalf of
17 indirect purchaser plaintiff ("IPP") counsel (ECF No. 4071).

18 5. Some months later, Winters became aware of the joint fee-petition, and contacted
19 Lead Counsel and requested that he be allowed to make a claim for fees. Lead Counsel requested
20 that Winters provide his daily time entries to Lead Counsel for review. Winters complied and Lead
21 Counsel reviewed his time entries. The time entries consisted of work drafting his complaint,
22 filing a related case statement, and reading docket entries.

23 6. At this time the joint fee petition was before Special Master Quinn for his
24 determination of the aggregate fee which should be awarded to all IPP Counsel. There were no
25 allocation issues before the Special Master at this time. Winters filed a fee declaration with the
26 Special Master on December 15, 2015 (ECF No. 4248).

1 7. On February 8, 2016, Lead Counsel emailed Special Master Quinn and indicated
2 that Lead Counsel had no objection to the Special Master considering Winters' request for fees
3 when the Special Master considered the allocation of fees among the various IPP firms. This email
4 was sent in consultation with Winters and Winters was copied on the email.

5 8. Thereafter, the Special Master submitted his Report & Recommendation on the
6 aggregate fee to be awarded to all IPP Counsel (ECF No. 4351). There was no determination of
7 any allocation to any individual IPP firm in this Report & Recommendation since that issue was
8 not before the Special Master. Winters did not object to this Report & Recommendation.

9 9. There were other objections to this Report & Recommendation and further
10 proceedings before this Court relating to these objections. Winters took no part in these
11 proceedings. The Court entered its fee order on August 3, 2016 (ECF No. 4740).

12 10. Thereafter, pursuant to this Court's Order (ECF No. 4740), the Special Master set a
13 schedule for proceedings before the Special Master on the allocation of the aggregate fee awarded
14 by the Court (ECF No. 4748). Pursuant to that schedule, Lead Counsel proposed an allocation of
15 the aggregate fees (ECF No. 4800). In that filing, Lead Counsel proposed that no fee be awarded
16 to Winters.

17 11. Objections to Lead Counsel's proposed allocation were due on September 7, 2016.
18 Eight firms filed objections. Winters did not file an objection. The Special Master is scheduled to
19 file a Report & Recommendation on the fee allocation by October 20, 2016.

20 12. Despite the fact that this matter has been proceeding before the Special Master
21 pursuant to an explicit schedule, Winters filed the present motion for fees with this Court rather
22 than proceed before the Special Master, as required by the scheduling order.

23 13. In addition to failing to follow well defined procedures in this case, Winters has not
24 made any showing of his entitlement to fees. Lead Counsel and others have reviewed his
25 Declaration and his time records. Contrary to his Declaration (ECF No. 4248 at ¶ 4), Lead Counsel
26 never assigned or authorized any of the work performed by Winters. The work was not necessary
27
28

1 to the prosecution of this case. The work did not benefit the class in any way. Winters filed a late
2 case, and then simply read the docket from time to time.

3
4 I declare under penalty of perjury that the foregoing is true and correct. Executed this 15th
5 day of September 2016 at San Francisco, California.

6
7 /s/ Mario N. Alioto

8 Mario N. Alioto

9 ***Lead Counsel for the Indirect Purchaser Plaintiffs***
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28